

SENATE CHAMBER, }  
 Sept. 17, 1866. }

Senate met pursuant to adjournment.

Prayer by the chaplain.

Roll called—quorum present.

Journal of yesterday read and adopted.

Senator Foscue made the following report :

*To the President of the Senate :*

The Finance Committee, to whom was referred the House bill to be entitled "An Act to provide for and regulate the collection of fees of office of all officers entitled to fees under the laws of Texas," have had the bill under consideration, and instruct me to report the bill back to the Senate, and unanimously recommend that it do not pass.

F. F. FOSCUÉ, for the committee.

Report received to come up in order.

Senator Foscue also reports :

*To the President of the Senate :*

The Committee on Finance, to whom was referred the Senate bill to be entitled "An Act making an appropriation for the payment of salaries of the officers of the Provisional Government, and for indebtedness incurred during the pendency of said Government, still remaining unpaid," have given the bill the most careful consideration, and with the view of putting all the officials of the Provisional Government upon an equality, have instructed me to report the bill to the Senate, and recommend its passage.

F. F. FOSCUÉ, one of the committee.

Report received to come up in order.

Senator Truitt submitted the following report :

*Hon. R. H. Guinn, President pro tem. of the Senate :*

Your committee, to whom was referred a bill entitled "An Act for the relief of Wm. Berryman," have had the same under consideration, and have unanimously instructed me to report the same back with the following amendments :

1st. Between the words *relief* and *of*, in the caption, insert the words *of the heir*.

2d. Strike out the word *labor* wherever it occurs.

3d. In eighth line of 1st Section, before the word *said*, insert the words *the heirs of*, and when so amended, recommend its passage.

JAS. TRUITT, Chairman.

Report received, &c.

Senator Shelley submitted the following report :

*To the President of the Senate :*

The Committee on State Affairs, to whom was referred "An

Act to consolidate in an act and amend the several acts incorporating the city of Houston, in Harris county," have considered the same, and instruct me to report the bill back with the accompanying amendment, and with the adoption of the amendment, to recommend its passage.

N. G. SHELLEY, for the committee.

Amend Section 27 by striking out the word "slaves," in the 16th line, and insert the words "persons and premises."

Report received, &c.

Senator Record, Chairman of the Committee on Judiciary, reported adversely to the passage of a House bill entitled "An Act to render valid certain forms in suits and proceedings in the courts of this State."

Report received.

Senator Record also reports and recommends the passage of House bill entitled a bill to be entitled "An Act to transfer jurisdiction of the estate of Thomas J. Chambers from the courts of the county of Chambers to the courts of the county of Galveston."

Report received.

Also reports and recommends the passage of House bill No. 40, entitled "An Act to legalize the election of the Judge and District Attorney of the Twelfth Judicial District."

Report received to come up in order.

Also reports and recommends the passage of House bill No. 33, entitled "An Act to provide for including the value of stamps in the taxation of costs."

Report received, &c.

Also reports and recommends the passage of House bill No. 31, entitled "An Act to amend the 15th and 16th Sections of an act to consolidate in one act and amend the several acts incorporating the town of Rusk, in Cherokee county," approved January 19, 1858.

Report received, &c.

Also reports and recommends the passage of House bill No. 35, entitled "An Act to provide for the appointment of special Judges for the trial of certain cases."

Report received, &c.

Also reports and recommends the passage of a bill to transfer the administration of the estate of C. C. Alexander from the county of Smith to the county of Fannin, in the State of Texas, with the following amendment :

In the last line of Section 2 strike out "dues" and insert "costs."

Report received, &c.

Also reports and recommends the passage of a House bill No. 52, entitled "An Act to amend an act entitled an act to dispense with the use of scrolls and seals in certain cases," approved Feb. 2d, 1858, with the following amendment:

Amend by adding at the end of Section 2, "provided, the provisions of this act shall not apply to any instrument heretofore executed."

Report received, &c.

Also reports and recommends the passage of a House bill No. 43, entitled "An Act authorizing the Court of Police to district the counties of the State into Commissioners Districts," with the following amendment:

Amend by inserting between the words "elected," in the 12th line from the top, and the word "in" in the 13th line, in Section 1, the words "for and reside."

Report received, &c.

Senator Record also reports:

*Hon. R. H. Guinn, President pro tem. of the Senate:*

The Judiciary Committee, to whom was referred House bill No. 51, entitled a bill to be entitled "An Act to provide for issuance of writs of garnishment by Clerks of District Courts, County Courts, and Justices of the Peace," have had the same under consideration, and a majority of the committee have instructed me to report the bill back to the Senate, and recommend that it do not pass.

The species of indebtedness subject to garnishment by the terms of the bill, are not sufficiently definite and certain. The language employed, and the evident intent of the bill, would subject negotiable notes (promissory) to garnishment, and also mortgages upon land, amounts due upon unsettled accounts, upon leases and agreements payable in specific articles, or in kind, unliquidated demands of every character, and various other transactions between the garnishee and the defendant, in which it would in many, if not in a majority of cases, be impossible for the garnishee to determine the extent of his liability, and in many of these cases the title to land, or some interest in land may be involved, and in such cases the Justices' Courts or County Courts would have no jurisdiction.

The majority of the committee are of the opinion that no indebtedness should be subject to garnishment, except such as is fixed and certain, or such as can be determined by computation or calculation.

They are also of the opinion that the bill is objectionable, because by proceedings under it persons to an indefinite number

may be compelled to become parties in order to secure their rights, and instead of setting in judgment upon the rights of original parties to the suit; the court may be called upon to determine many side issues between one of the parties and other persons; and besides, proceedings under the act might, and often would work a great injury to parties by tying up and preventing the adjustment of mutual, outstanding and unsettled debts and demands, and the ends of justice be thereby defeated instead of advanced.

The bill also provides a remedy similar in its operation to the writ of attachment, without requiring the plaintiff to give security as in attachments.

J. K. P. RECORD, Chairman.

Report received, &c.

- Senator Truitt reports and recommends the passage of a bill entitled "An Act for the relief of the heirs of Berry Doolittle."

Report received, &c.

- Senator Shannon, Chairman of Committee on Indian Affairs, reports and recommends the passage of the House bill entitled "An Act to provide for the release of children or other persons, citizens of the State of Texas, which are, have been, or may hereafter be held as prisoners of war by the Indians," with the following amendments :

In caption, 4th line, strike out the word "which" and insert "who."

In 1st Section, 12th line, strike out the word "which" and insert "who."

Report received, &c.

Senator Yarbrow reports and recommends the passage of House bill entitled "An Act to amend the 3d Section of an act to incorporate the Southern Cotton Press and Manufacturing Company."

Report received.

Also reports and recommends the passage of a House bill to incorporate the Eureka Manufacturing Company."

Report received, &c.

Senator Record reports and recommends the passage of a bill entitled "An Act concerning disorganized counties."

Report received, &c.

• Senator Foscoe, for the Finance Committee, reports a substitute for a House bill entitled "An Act to restore lands sold for taxes, and purchased by the State, to former owners upon certain conditions," and recommends its passage.

Report received, &c.

Senator Jowers submitted the following report :

*Hon. Geo. W. Jones, President of the Senate:*

The Committee on Claims and Accounts, to whom was referred "An Act for the relief of Doctor P. D. Turner," have had the same under consideration, and have instructed me to report that it is thought by the committee that the Legislature, during the present session, will, in accordance with an ordinance of the late amended Constitution of the State, pass some general law for the auditing of outstanding liabilities against the State of this character, until which time the committee does not believe that any action should be taken by the Legislature; therefore the committee beg leave to report the same back to the Senate, and be discharged from its further consideration.

W. G. W. JOWERS, Chairman.

Report received, &c.

Senator Randolph introduced a bill to be entitled "An act making an appropriation for the payment of judgments rendered in favor of heirs and against the State Treasurer for money paid to him by executors or administrators."

Read first time and referred to Committee on Finance.

Senator Parker introduced a bill to incorporate the Brownsville Mutual Insurance Company.

Read by caption and referred to Committee on Manufactures and Commerce.

Senator Record introduced a bill to incorporate the Honey Springs Ferry Company.

Bill read by caption and referred to Committee on Roads, Bridges and Ferries.

Senator Boyce introduced a bill and memorial to authorize Robert T. Gould, Judge of the 13th Judicial District, to hold a special term of the District court in Robertson county.

Read by caption and referred to Judiciary Committee.

A message was received from the House announcing the passage of the following bills:

Bill to incorporate the El Paso Irrigation and Manufacturing Company.

Bill to incorporate the Brazos Internal Improvement and Navigation Company.

Bill to amend "An Act to authorize the disposition and sale of the University lands," approved Aug. 30th, 1856.

Bill amendatory of "An Act to adopt the Common Law of England, to repeal certain laws, and to regulate marital rights of parties."

Bill for relief of Milam County.

Bill to incorporate the Texas Transportation Company.

And that the House adhered to its amendments to a bill to incorporate the Houston Direct Navigation Company, and had appointed a Committee of Conference consisting of Messrs. Munson, Smith of Harris, and Thomas of Fayette, and asked the appointment of a like committee on the part of the Senate; whereupon, the Chair announced Messrs. Foscue and Stell as said committee on the part of the Senate.

And a bill to provide for districting the State of Texas into Judicial Districts.

Upon motion of Senator Dalrymple the special order was suspended and the following House bills were taken up, read first time and referred as indicated :

Bill to incorporate the El Paso Irrigation and Manufacturing Company; referred to Committee on State Affairs.

Bill to incorporate the Brazos Internal Improvement and Navigation Company; referred to Committee on Internal Improvements.

Bill to amend "An Act to authorize the disposition and sale of the University lands," approved August 30, 1856, referred to Committee on Public Lands.

Bill amendatory of "An Act to adopt the Common Law of England, to repeal certain laws, and to regulate marital rights of parties;" referred to Committee on Judiciary.

Bill for relief of Milam county; referred to Judiciary Committee.

Upon motion of Senator Selman, Senator Foscue was added to Committee on Public Lands.

The hour having arrived for the consideration of the bill for frontier protection, the same being the special order, the bill was taken up.

The question being upon the adoption of the report of the Committee of the Whole, recommending a substitute, the report was adopted by the following vote :

YEAS—Senators Boyd, Brown, Bumpass, Coppedge, Guinn, Jowers, Lane, Nelson, Neyland, Parker, Randolph, Reed, Saufley, Selman and Truitt—15.

NAYS—Senators Braswell, Blount, Cook, Cooley, Dalrymple, McDade, Record, Shannon, Stell and Yarbrow—10.

Senator Shannon moved to amend as follows :

"Strike out all after the word 'receive' in first section, 16th line, and insert 'two hundred dollars per month, the Lt. Colonel shall receive one hundred and fifty dollars per month; Major one hundred and forty dollars per month; Captain one hundred and twenty-five dollars per month; Lieutenants ninety dollars

per month; First Sergeant thirty-eight dollars per month; Sergeant thirty-four dollars per month; Corporals, Buglers and Farriers thirty-three dollars per month; and privates thirty dollars per month: Provided, the pay of all officers and men shall be in currency; and further, that the pay herein provided shall be full compensation in lieu of all other pay and commutation for clothing for officers and men.' "

Amendment made.

Upon motion of Senator Dalrymple the following amendment was made:

Amend section 1st so as to give the Surgeon the rank and pay of Major, and Assistant Surgeon the rank and pay of Captain.

Senator Dalrymple also moved to amend section 1st by striking out the word "two" and inserting "three" before the word "surgeons."

The yeas and nays being called, the amendment was made by the following vote:

YEAS—Senators Blount, Boyd, Brown, Cook, Cooley, Copedge, Dalrymple, Knox, McDade, Record, Shannon, Shelley, Stell and Yarbrow—14.

NAYS—Senators Braswell, Bumpass, Guinn, Jowers, Lane, Nelson, Neyland, Parker, Reed, Saufley, Selman and Truitt—12.

Upon motion of Senator Cooley, bill was amended as follows:

After the word protection, in 3d line, section 9th, insert, "and may thereafter call into the service and reorganize such companies and battalions whenever the condition of the frontier may require it; Provided, it shall not be for a longer period than twelve months, and."

Senator Record moved to amend as follows:

Strike out all after "battalion" in fourth line, counting from the bottom, in section 8th, to the word "and," in second line, counting from bottom, in same section.

Withdrawn.

Senator Shannon moved to amend as follows:

In section 1st, 14th line, after the word "captain" add "and two assistant Commissaries and Quartermasters, with the rank of 1st Lieutenant."

Amendment made.

Senator Record moved to strike out all after the word "person," in 6th line from the bottom, in section 8th.

Amendment made.

Senator Shelley moved to amend section 8th by inserting after the word "waggon," in the 4th line, the following:

"Together with such number of pack animals and accoutrements as the Colonel, with the Governor's approval, may require.

The yeas and nays being called the amendment was made by the following vote :

YEAS—Senators Braswell, Blount, Brown, Cooley, Dalrymple, Knox, McDade, Parker, Randolph, Record, Shannon, Shelley, Stell and Yarbrow—14.

NAYS—Senators Boyd, Bumpass, Cook, Coppedge, Foscoe, Guinn, Jowers, Nelson, Neyland, Reed, Saufley, Selman and Truitt—13.

Upon motion of Senator Brown the following was added to the 3d section :

"Provided, that the Governor may receive three companies of said regiment from other counties not specified."

Senator Saufley moved to add the following as an additional section :

"That no leave of absence to officers, or furloughs to privates, be granted, except in cases of protracted sickness, or of great emergency, and pay to cease while absent on leave of absence or furlough from their command, except in cases of protracted sickness, and if absent thirty days on that account, shall be discharged : Provided, that this section does not apply to men or officers receiving wounds in action, of severe character."

Lost.

Bill as amended read second time and passed to a third reading.

Upon motion of Senator Shannon, rule suspended and bill taken up.

Upon motion of Senator Guinn, rule was further suspended, bill read third time by caption and passed.

Senator Neyland made the following report :

COMMITTEE RECOM, }  
Austin, Sept. 17, 1866. }

*Hon. Geo. W. Jones, President of the Senate :*

The Committee on Engrossed Bills have examined and find correctly engrossed the following bills and resolutions, viz :

A bill to be entitled "An Act supplementary to and amendatory of an act entitled an act regulating sequestrations," approved March 15th, 1848.

A bill to be entitled "An Act to incorporate the Texas Producing Company.

Joint resolutions endorsing the President of the United States.



A bill to be entitled "An Act to amend an act entitled an act to adopt and establish a Penal Code for the State of Texas," approved August 28th, 1856, and to repeal certain portions thereof.

A bill to be entitled "An Act to repeal an act entitled an act to be entitled an act authorizing judgments to be rendered in certain cases, requiring property levied upon by execution, or sale under deeds of trust or mortgage, to bring nine-tenths of its appraised value," approved March 4th, 1863.

A bill to be entitled "An Act to prohibit the sale of spirituous liquors within four miles of Bosque College."

A bill to be entitled "An Act to repeal an act to suspend the location, survey and sale of the public lands except in certain cases," approved December 14th, 1863.

A bill to be entitled "An Act to authorize the County Courts of Bexar, Marion, Walker, Gonzales, Travis, Johnson, Ellis, Parker, Erath, Tarrant, Palo Pinto, Matagorda and Cameron counties to issue and sell county bonds for the purpose of erecting court-houses and jails, and levy a special tax to meet the same."

A bill to be entitled "An Act to authorize the County Court of Comal county to levy and collect a special tax."

A bill to be entitled "An Act to incorporate Shook's Bluff Bridge or Ferry Turnpike Company."

A bill to be entitled "An Act to incorporate the Yegua Bridge Company."

And a bill to be entitled "An Act to amend Article 382, Title 2, Chapter 3d, of the Penal Code."

W. M. NEYLAND,  
Chairman Com. on Engrossed Bills.

Report accepted.

Upon motion of Senator Guinn, the Senate adjourned until to-morrow morning at 9½ o'clock.

SENATE CHAMBER, }  
AUSTIN, Sept. 18, 1866. }

Senate met pursuant to adjournment.

Prayer by the Chaplain.

Roll called—quorum present.

Journal of yesterday read and adopted.

Senator Record, Chairman of Judiciary Committee, reported adversely to House bill No. 62, entitled "An Act amendatory of